

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STRIPPIT, INC.,

Plaintiff,

v.

Civil Action No. 09-cv-509-RJA

KEITH COFFEE,

Defendant.

**DECLARATION OF BRUCE TURNER
IN SUPPORT OF PLAINTIFF STRIPPIT, INC.'S
MOTION FOR A JUDGMENT UPON DEFAULT**

Pursuant to 28 U.S.C. § 1746, Bruce Turner declares as follows:

1. My name is Bruce Turner. I am a citizen and resident of the State of New York, and I make this Declaration based upon personal knowledge of all matters stated herein.
2. I am the Vice President, Finance, and Chief Financial Officer, of Plaintiff Strippit, Inc. I make this Declaration in support of Strippit's Motion for a Judgment upon Default.
3. The facts giving rise to Strippit's claims are explained in the Complaint in this action and in the declaration of Strippit's counsel, submitted herewith.
4. Strippit makes and sells various machines for the sheet metalworking industry, and also makes and sells replacement parts for its machines. Complaint at ¶¶ 7, 9.
5. Defendant Keith Coffee was first an employee, and later an independent contractor, of Strippit.
6. On July 31, 2009, I visited an Internet domain name database located at www.dnsstuff.com, and searched for the owner of the domain name www.strippitparts.com (the "Infringing Domain Name"). The database indicated that Defendant Keith Coffee registered the

domain name www.strippitparts.com on September 18, 2006. A true and correct copy of the printout from my search is attached hereto as **Exhibit A**.

Lost Profits for the Period of October 2006 through December 2008

7. Strippit's revenue from the sales of its *machines*, generally, were steady from 2006 through 2008. Strippit experienced neither a large increase nor a large decrease in *machine* sales during this time period.

8. However, Strippit's revenue from the sales of *replacement parts* decreased greatly once Defendant registered the Infringing Domain Name. In 2006, Strippit had revenue of \$6,974,000.00 from the sales of replacement parts. In 2007, Strippit's revenue from the sales of replacement parts was down 12.2% from 2006; Strippit's replacement parts revenue in 2007 was \$6,126,000.00. Although Strippit was able to make some recovery in 2008, it was not able to fully recover: Strippit's revenue for 2008 from the sales of replacement parts was only \$6,227,000.00, still 10.7% lower than its comparable sales revenue from 2006.

9. It is likely that Strippit's revenue from the sales of replacement parts would have increased rather than decreased in 2007, and again in 2008, if it were not for Defendant's activities through the website located at the Infringing Domain Name. Given the 12.2% decline in revenue for 2007 and 10.7% decline for 2008, and the fact that revenue should have *increased* during that time period, I estimate that the Infringing Domain Name and associated website had a negative impact on Strippit's replacement parts sales revenue at the rate of 12% per year.

10. During 2006, Strippit's average actual monthly sales revenue from the sales of replacement parts was \$581,167.00.

11. The Infringing Domain Name was registered on September 18, 2006. There are 27 months between October 1, 2006 and December 31, 2008, inclusive. (For ease of calculation, I have not counted the last twelve days of September 2006.)

12. Strippit therefore expected $\$581,167.00 \times 27 = \$15,691,509.00$ in replacement parts sales revenue during the 27 months between October 2006 and December 2008.

13. Accordingly, Strippit's lost revenues for the period of October 2006 through December 2008 is 12% of $\$15,691,509.00$; i.e., $\$1,882,981.00$ for the period, or $\$69,740.00$ per month.

14. Strippit's profit margin on replacement parts sales in 2006 was 63.7%. $\$69,740.00$ per month, multiplied by the 3 months between October 2006 and December 2006, is $\$209,220.00$ in lost revenue. 63.7% of that number, or $\$133,273.14$, was Strippit's lost profit (as a result of Defendant's conduct) for 2006.

15. Strippit's profit margin on replacement parts sales in 2007 was 59.7%. $\$69,740.00$ per month, multiplied by the 12 months between January 2007 and December 2007, is $\$836,880.00$ in lost revenue. 59.7% of that number, or $\$499,617.36$, was Strippit's lost profit (as a result of Defendant's conduct) for 2007.

16. Strippit's profit margin on replacement parts sales in 2008 was 46.8%. $\$69,740.00$ per month, multiplied by the 12 months between January 2008 and December 2008, is $\$836,880.00$ in lost revenue. 46.8% of that number, or $\$391,659.84$, was Strippit's lost profit (as a result of Defendant's conduct) for 2008.

17. Accordingly, Strippit's actual damages for the period of October 2006 through December 2008 are $\$133,273.14 + \$499,617.36 + \$391,659.84 = \$1,024,550.34$.

Lost Profits for the Period of January 2009 through August 2009

18. As above, Strippit's sales of machines (not replacement parts) were steady from 2006 through 2008. However, Strippit's revenues from the sales of machines were down in 2009, indicating that the current economic crisis finally impacted the machine tool industry in general, and Strippit, specifically, this year. Accordingly, Strippit discounts its damages claimed for 2009 to compensate for economic conditions, as is discussed more fully below.

19. Strippit's revenues from the sales of replacement parts are down 32.7% in 2009, compared to 2008.

20. There are eight months between January and August 2009, inclusive.

21. Strippit's lost revenues for the period of January 2009 through August 2009 is \$69,740.00 multiplied by 8 months, i.e., \$557,920.00, further discounted by 32.7% to reflect economic conditions, for a subtotal of \$375,480.16.


22. Strippit's profit margin on replacement parts sales in 2009 (as calculated through August 28, 2009) is 43.1%. 43.1% of Strippit's 2009 lost revenues of \$375,480.16, or **\$161,831.95**, was Strippit's lost profit (as a result of Defendant's conduct) through August 2009.

Strippit's Actual Damages

23. Strippit's lost profits as a result of Defendant's infringement total \$1,024,550.34 + \$161,831.95 = **\$1,186,382.29**.

24. Strippit's counsel informs me that this amount may be trebled pursuant to statute, and that the declaration of Strippit's counsel, submitted herewith, will more fully discuss the total damages sought by Strippit.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
August 31, 2009.



Bruce Turner

Exhibit A

DNSstuff Tool Results

Registrar: DomainPeople Inc.

Domain Name: strippltparts.com
Created on2006-09-18-12.51.05.000000
Expires on2009-09-18-12.51.05.000000
Record last updated on .2009-07-23-16.12.05.369326
StatusACTIVE

Administrative Contact:
Keith Coffee
Keith Coffee
P.O. Box 166

ALBION, NY
14411, US
+1.7168304630

*****@Rochester.rr.com

Technical Contact:
Prostores
Domain Tech
3250 W. Commercial Blvd.

Ft. Lauderdale, FL
33309, US
+1.9543348000

*****@prostores.com

Domain servers in listed order:
(strippltparts.com)